

ASSEMBLY BILL

No. 3

Introduced by Assembly Members Blakeslee and Solorio
(Coauthors: Assembly Members Adams, Conway, Fletcher,
Furutani, Garrick, Gilmore, Hagman, Hall, Nava, Portantino,
Silva, Tran, and Villines)
(Coauthors: Senators Ashburn, Denham, Huff, and Walters)

November 3, 2009

An act to amend Section 7074.2 of the Government Code, and to amend Section 26003 of, and to add Section 26011.7 to, the Public Resources Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 3, as introduced, Blakeslee. Economic development.

(1) The Enterprise Zone Act provides for the designation of enterprise zones by the Department of Community Housing and Development based on the department's approval of applications from a city, county, or city and county with a geographic area meeting certain criteria. Certain entities within a designated enterprise zone may receive regulatory, tax, and other incentives for private investment and employment. Existing law provides that no more than 42 enterprise zones be designated at any one time pursuant to the act. Upon the expiration or termination of a designation, existing law authorizes the department to designate another enterprise zone to maintain a total of 42 enterprise zones.

This bill would authorize the department to designate one special enterprise zone within the City of Fremont consisting of a geographical area encompassing a facility that manufactures automobiles and to designate, until 90 days after the act takes effect, an additional 10 special

enterprise zones limited to one nonrenewable 15-year term. The bill would exclude these enterprise zones from the calculation of the overall number of enterprise zones authorized under the act. The bill would also make legislative findings and declarations as to the necessity of a special statute.

(2) The California Alternative Energy and Advanced Transportation Financing Authority Act established the California Alternative Energy and Advanced Transportation Financing Authority. The authority is authorized to do all things necessary and convenient to carry out the purposes of the act. The authority is also required to establish a renewable energy program to provide financial assistance, as defined, to certain entities for projects to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. Existing law provides that the transfer of title of tangible personal property constituting a project under the act to the authority by a participating party or the lease or transfer of tangible personal property constituting a project under the act by the authority to a participating party pursuant to the act is not a “sale” or “purchase” for the purposes of the Sales and Use Tax Law.

This bill would include as a project, machinery, or equipment that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of an alternative source component. The bill would include as “financial assistance” for the purposes of the act purchases, sales, or lease arrangements that qualify for exclusion from the Sales and Use Tax Law. The bill would require the authority to consider specified criteria in approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion. The bill would require, when the sales and use tax exclusion for projects approved by the authority exceed \$100,000,000 annually, the authority to provide a 20-day notice to the Legislature for additional project approval.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7074.2 of the Government Code is
2 amended to read:

1 7074.2. (a) Notwithstanding any other provision of law, a city,
2 county, or a city and county may designate a joint powers authority
3 to administer an enterprise zone.

4 (b) No more than 42 enterprise zones may be designated at any
5 one time pursuant to this chapter, including those deemed
6 designated pursuant to subdivision (e) of Section 7073. Upon the
7 expiration or termination of a designation, the department may
8 designate another enterprise zone to maintain a total of 42
9 enterprise zones.

10 (c) *Notwithstanding subdivision (b), the department may*
11 *designate one special enterprise zone pursuant to this chapter*
12 *within the City of Fremont that consists of a geographical area*
13 *encompassing a facility that manufactures automobiles. The*
14 *enterprise zone designated under this subdivision shall not be*
15 *included in the calculation of the overall number of enterprise*
16 *zones authorized under this chapter. The applicant and application*
17 *shall comply with the provisions of this chapter and the*
18 *department's regulations governing enterprise zones specified in*
19 *Title 25 (commencing with Section 8430) of the California Code*
20 *of Regulations, except that the application shall not be subject to*
21 *a competitive application process.*

22 (d) *Notwithstanding subdivision (b), the department may, until*
23 *90 days after the act amending this section takes effect, designate*
24 *an additional 10 special enterprise zones limited to one*
25 *nonrenewable 15-year term. Enterprise zones designated under*
26 *this subdivision shall not be included in the calculation of the*
27 *overall number of enterprise zones authorized under this chapter.*
28 *If the department has completed its 2009 competitive designation*
29 *process as of the date the act amending this section goes into effect,*
30 *it may use the results of that process to select the additional 10*
31 *special enterprise zones.*

32 (e)
33 (e) Notwithstanding any other provision of law, an expiring
34 enterprise zone that applies for a new enterprise zone designation
35 pursuant to Section 7073 or 7073.1, and receives a conditional
36 designation letter from the department, may offer, and a taxpayer
37 doing business within the geographic boundaries of the new zone
38 referenced in the conditional designation letter shall be eligible to
39 receive, all enterprise zone benefits until the department makes a
40 final designation or declines to redesignate the zone. The

1 department shall make the effective date of the new zone the date
2 of expiration of the previous designation and the term of the new
3 zone shall begin on that date.

4 SEC. 2. Section 26003 of the Public Resources Code is
5 amended to read:

6 26003. As used in this division, unless the context otherwise
7 requires:

8 (a) “Authority” means the California Alternative Energy and
9 Advanced Transportation Financing Authority established pursuant
10 to Section 26004, and any board, commission, department, or
11 officer succeeding to the functions of the authority, or to which
12 the powers conferred upon the authority by this division shall be
13 given.

14 (b) “Cost” as applied to a project or portion thereof financed
15 under this division means all or part of the cost of construction
16 and acquisition of all lands, structures, real or personal property
17 or an interest therein, rights, rights-of-way, franchises, easements,
18 and interests acquired or used for a project; the cost of demolishing
19 or removing any buildings or structures on land so acquired,
20 including the cost of acquiring any lands to which those buildings
21 or structures may be moved; the cost of all machinery, equipment,
22 and furnishings, financing charges, interest prior to, during, and
23 for a period after, completion of construction as determined by the
24 authority; the cost of the purchase or sale of energy derived from
25 an alternative source pursuant to subdivision (g) of Section 26011;
26 provisions for working capital; reserves for principal and interest
27 and for extensions, enlargements, additions, replacements,
28 renovations, and improvements; the cost of architectural,
29 engineering, financial, accounting, auditing and legal services,
30 plans, specifications, estimates, administrative expenses, and other
31 expenses necessary or incident to determining the feasibility of
32 constructing any project or incident to the construction, acquisition,
33 or financing of a project.

34 (c) (1) “Alternative sources” means the application of
35 cogeneration technology, as defined in Section 25134; the
36 conservation of energy; or the use of solar, biomass, wind,
37 geothermal, hydroelectricity under 30 megawatts, or any other
38 source of energy, the efficient use of which will reduce the use of
39 fossil and nuclear fuels, and is intended primarily to offset part or
40 all of the customer’s own electrical requirements.

(2) “Alternative sources” does not include a hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) “Advanced transportation technologies” means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state’s commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.
- (3) Command, control, and communications for public transit vehicles and systems.
- (4) Electric vehicles and ultralow-emission vehicles.
- (5) High-speed rail and magnetic levitation passenger systems.
- (6) Fuel cells.

(e) “Financial assistance” includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the ~~board~~ authority.

(2) *Purchases, sales, or lease arrangements that qualify for exclusion from the sales and use tax pursuant to Section 6010.8 of the Revenue and Taxation Code.*

~~(2)~~
(3) Any other type of assistance the authority determines is appropriate.

(f) “Participating party” means either of the following:

(1) A person or an entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that does either of the following:

(A) Applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

1 (B) Participates in the purchase or sale of energy derived from
2 an alternative source pursuant to subdivision (g) of Section 26011.

3 (2) A public agency or nonprofit corporation that does either of
4 the following:

5 (A) Applies for financial assistance from the authority for the
6 purpose of implementing a project in a manner prescribed by the
7 authority.

8 (B) Participates in the purchase or sale of energy derived from
9 an alternative source pursuant to subdivision (g) of Section 26011.

10 (g) “Project” means a land, building, improvement to the land
11 or building, rehabilitation, work, property, or structure, real or
12 personal, stationary or mobile, including, but not limited to,
13 machinery and equipment, whether or not in existence or under
14 construction, that utilizes, or is designed to utilize, an alternative
15 source, or that is utilized for the design, technology transfer,
16 manufacture, production, assembly, distribution, or service of
17 advanced transportation technologies, *alternative source*
18 *components*, or an arrangement for the purchase, including
19 prepayment, or sale of energy derived from an alternative source
20 pursuant to subdivision (g) of Section 26011.

21 (h) “Public agency” means a federal or state agency, department,
22 board, authority, state or community college, university, or
23 commission, or a county, city and county, city, regional agency,
24 public district, school district, or other political entity.

25 (i) (1) “Renewable energy” means a device or technology that
26 conserves or produces heat, processes heat, space heating, water
27 heating, steam, space cooling, refrigeration, mechanical energy,
28 electricity, or energy in any form convertible to these uses, that
29 does not expend or use conventional energy fuels, and that uses
30 any of the following electrical generation technologies:

31 (A) Biomass.

32 (B) Solar thermal.

33 (C) Photovoltaic.

34 (D) Wind.

35 (E) Geothermal.

36 (2) For purposes of this subdivision, “conventional energy fuel”
37 means any fuel derived from petroleum deposits, including, but
38 not limited to, oil, heating oil, gasoline, fuel oil, or natural gas,
39 including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, “renewable energy” also means ultralow-emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

SEC. 3. Section 26011.7 is added to the Public Resources Code, to read:

26011.7. (a) To promote the creation of jobs and reduction of greenhouse gases, the authority may approve a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code.

(b) In approving a project for which the purchase, sale, or lease of tangible personal property qualifies for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code, the authority shall consider all of the following criteria:

(1) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(2) The extent to which the project will create new, permanent jobs in California.

(3) The extent to which the project is consistent with local and state planning.

(4) The extent to which the project will produce quantifiable, verifiable, and sustainable reductions in the emissions of greenhouse gases as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

(5) Any other factors that the authority deems appropriate.

(c) Once exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this section exceed one hundred million dollars (\$100,000,000) annually, the authority shall provide a 20-day

1 notice to the Legislature for additional approvals made pursuant
2 to this section.

3 SEC. 4. Due to the unique circumstances of the City of
4 Fremont, with respect to the need for sustained employment and
5 business development in the area, the Legislature hereby finds and
6 declares that a general statute cannot be made applicable within
7 the meaning of Section 16 of Article IV of the California
8 Constitution.

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